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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,532	03/02/2005	Terry Wayne Lockridge	PU020413	5327

24498 7590 07/08/2010
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EXAMINER

LEWIS, JONATHAN V

ART UNIT

PAPER NUMBER

2425

MAIL DATE

DELIVERY MODE

07/08/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,532

Applicant(s)

LOCKRIDGE, TERRY WAYNE

Examiner

JONATHAN LEWIS

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's amendment filed March 1, 2010. Claims 1-12 are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments filed March 1, 2010 have been fully considered but they are not persuasive.

Applicant argues that all of the elements of independent claim 1 are not taught by the prior art of record. Independent claim 7 features similar elements to that of claim 1, and the remainder of the claims depends from the two independent claims.

The first argument against the prior art of record is that Dunn et al. does not teach the element: "pausing the display of the broadcast program if the client's stored broadcast programming has not reached the client's predetermined storage limit." Examiner respectfully disagrees. By the broadest reasonable interpretation, two things must be present in order to fulfill this claim element: 1. the display of the broadcast program must be paused, and 2. the client must have a predetermined storage limit. Applicant's argument is not that the program is not paused, but rather than the conditional pausing based on the "predetermined storage limit" is not met. However, Fig. 1, 26a-d show physical set top boxes, and all set top boxes have a limit to their storage capacities, which is explicitly stated in col. 10, lines 21-30. The fact that the allocation of the limited memory in the set top box is not done by the network is not

relevant to the fulfillment of this claim requirement, and the teaching of that element is not relied upon Dunn et al. in the previous office action.

The second argument against the prior art of record is that Fingerman et al. does not teach the element: "determining if the client's stored broadcast programming has reached the client's predetermined storage limit." Examiner respectfully disagrees. The premise of the argument is that "[d]etermining if there is enough storage space to store an unstored program is not the same as 'determining if the client's stored broadcast programming has reached the client's stored broadcast storage limit' element recited in independent claim 1." However, the determination is in fact made, even if it is made prior to the storage, and therefore is a predetermination. The storage of the program, in its entirety, is still relevant to the ability of the modified set top box of Dunn to be able to perform a pause function.

Finally, the third argument is directed towards Colbath and the claim limitation: "displaying the stored broadcast program if the client's stored broadcast programming has reached the client's predetermined storage limit." Applicant argues that the feature is not taught by Colbath; instead a queued stream is created from insufficient streaming video data. Examiner respectfully disagrees. First, a queue is a pause of the stream as the video is accumulated in storage. Second, the claim language does not require a maximum or uppermost storage limit to fulfill the claim language, so based on the pause of the video until the minimum storage limit is achieved by receiving enough queued video data, and then displaying the stream, Colbath does in fact read on the claim language as currently constructed.

Therefore, based upon the evidence set forth in the prior art of record, examiner maintains his rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US Pat. No. 5,721,829) in view of Fingerman et al. (US Pat. No. 7,143,430) in further view of Colbath (US Pat. No. 6,728,776).

Regarding claim 1, Dunn et al. teaches a method of providing a pause function for a broadcast program in a multi-client network (Abstract), the method comprising: displaying a broadcast program to a client (col. 2, lines 51-57); receiving a pause request from the client (col. 6, lines 16-25 discloses the pause request is user's request to change to a non-VOD channel); pausing the display of the broadcast program if the client's stored broadcast programming has not reached the client's predetermined storage limit (col. 6, lines 39-55 discloses the permanent enablement of the pause feature, no limit has been reached); storing the broadcast program in the storage device while the display of the broadcast program is paused (col. 7, lines 43-55).

Dunn et al. teaches all the claim limitations as stated above, except allocating predetermined storage limits in a storage device for a plurality of clients on the network; determining if the client's stored broadcast programming has reached the client's

predetermined storage limit; and displaying the stored broadcast program if the client's stored broadcast programming has reached the client's predetermined storage limit.

However, Fingerman et al. teaches allocating predetermined storage limits in a storage device for a plurality of clients on the network (col. 4, lines 14-24); determining if the client's stored broadcast programming has reached the client's predetermined storage limit (Fig. 12; col. 10, lines 8-32).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allocate storage limits in client devices and determine if the client has reached the storage limit, in order to provide on-demand content efficiently to users, while allowing providers to maximize profitability by charging customers according to the amount of storage space they require.

Dunn et al. in view of Fingerman et al. teaches all the claim limitations as stated above, except displaying the stored broadcast program if the client's stored broadcast programming has reached the client's predetermined storage limit.

However, Colbath teaches displaying the stored broadcast program if the client's stored broadcast programming has reached the client's predetermined storage limit (Fig. 3; col. 4, lines 18-34 discloses resuming the display once the predetermined minimum storage limit of queued video stream has been met).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to display the stored broadcast program if the client has reached a predetermined storage limit, in order to ensure the video that is streamed can be played without interruption.

Regarding claim 2, Dunn et al. in view of Fingerman et al. in further view of Colbath teaches all the claim limitations as stated above, except the steps of: receiving a play request from the client; and displaying the stored broadcast program to the client.

However, Dunn et al. teaches the steps of: receiving a play request from the client (Fig. 5, step 208); and displaying the stored broadcast program to the client (Fig. 6, step 216).

System **claims 7-8** are rejected for the same reasons as stated above in the corresponding method claims.

Claims 3-4, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US Pat. No. 5,721,829) in view of Fingerman et al. (US Pat. No. 7,143,430) in further view of Colbath (US Pat. No. 6,728,776) in further view of Gardner et al. (US Pat. No. 5,583,995).

Regarding claim 3, Dunn et al. in view of Fingerman et al. in further view of Colbath teaches all the claim limitations as stated above, except the step of allocating predetermined storage limits for the plurality of clients includes allocating identical storage limits for the plurality of clients.

However, Gardner et al. teaches the step of allocating predetermined storage limits for the plurality of clients includes allocating identical storage limits for the plurality of clients (col. 10, lines 39-54 disclose the allocation of identical, equal, storage limits).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allocate identical storage limits for multiple clients, in order to equally share bandwidth and avoid network congestion.

Regarding claim 4, Dunn et al. in view of Fingerman et al. in further view of Colbath teaches all the claim limitations as stated above, except the step of allocating predetermined storage limits for the plurality of clients includes allocating different storage limits for some of the plurality of clients.

However, Gardner et al. teaches the step of allocating predetermined storage limits for the plurality of clients includes allocating different storage limits for some of the plurality of clients (col. 10, lines 39-54 disclose the allocation of different storage limits if the available bandwidth is different).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allocate different storage limits for multiple clients, in order to share available bandwidth on the network based on available resources.

System **claims 9-10** are rejected for the same reasons as stated above in the corresponding method claims.

Claims 5-6, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US Pat. No. 5,721,829) in view of Fingerman et al. (US Pat. No. 7,143,430) in further view of Colbath (US Pat. No. 6,728,776) in further view of Gelman et al. (US Pat. No. 5,371,532).

Regarding claim 5, Dunn et al. in view of Fingerman et al. in further view of Colbath teaches all the claim limitations as stated above, except the steps of: receiving a rewind request from the client; and permitting the client to rewind through the stored

broadcast program if the client's stored broadcast programming has not reached the client's predetermined storage limit.

However, Gelman et al. teaches the steps of: receiving a rewind request from the client (col. 12, lines 27-44); and permitting the client to rewind through the stored broadcast program if the client's stored broadcast programming has not reached the client's predetermined storage limit (col. 12, lines 27-44).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allow the user to control the VCR-like functions of rewind and fast-forward of the stored broadcast program, in order to provide the viewer maximum flexibility for viewing the program that he/she has ordered and it gives the user the ability to rewind scenes which they may desire to view again.

Regarding claim 6, Dunn et al. in view of Fingerman et al. in further view of Colbath teaches all the claim limitations as stated above, except the step of displaying the stored broadcast programming includes: receiving a fast forward request from the client; fast forwarding through the stored broadcast programming; and permitting the client to pause the display of the program until the client's predetermined storage limit is again reached.

However, Gelman et al. teaches the step of displaying the stored broadcast programming includes: receiving a fast forward request from the client; fast forwarding through the stored broadcast programming (col. 12, lines 27-44); and permitting the client to pause the display of the program until the client's predetermined storage limit is again reached (col. 12, lines 27-44).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allow the user to control the VCR-like functions of rewind and fast-forward of the stored broadcast program, in order to provide the viewer maximum flexibility for viewing the program that he/she has ordered and it gives the user the ability to fast-forward through undesirable scenes in a program.

System **claims 11-12** are rejected for the same reasons as stated above in the corresponding method claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Hooper et al. US Pat. No. 5,422,390
- b. Russo US PG Pub. No. 2004/0123323
- c. Tran US PG Pub. No. 2002/0194609
- d. Bonomi et al. US Pat. No. 6,769,127
- e. Horvitz et al. US Pat. No. 7,403,935
- f. Jerding et al. US PG Pub. No. 2005/0172326

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN LEWIS whose telephone number is (571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425